

AMENDED IN ASSEMBLY JUNE 11, 2015

AMENDED IN SENATE MAY 7, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 22, 2015

AMENDED IN SENATE APRIL 9, 2015

## SENATE BILL

**No. 277**

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### **Introduced by Senators Pan and Allen**

(Principal coauthor: Assembly Member Gonzalez)

**(Coauthors: Senators Beall, Block, De León, Hall, Hertzberg, Hill, Jackson, Leno, McGuire, Mitchell, Stone, Wieckowski, and Wolk)**

(Coauthors: Assembly Members Baker, *Bloom*, Chiu, Cooper, Cristina Garcia, *Jones-Sawyer*, Low, McCarty, Nazarian, *Quirk*, Rendon, Mark Stone, and Wood)

February 19, 2015

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An act to amend Sections 120325, 120335, ~~and 120370~~ *120370*, and *120375* of, to add Section 120338 to, and to repeal Section 120365 of, the Health and Safety Code, relating to public health.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 277, as amended, Pan. Public health: vaccinations.

Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any public or private elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her admission to that institution he or she has been fully immunized against various diseases, including measles, mumps, and pertussis, subject to any specific age criteria. Existing law authorizes

an exemption from those provisions for medical reasons or because of personal beliefs, if specified forms are submitted to the governing authority. Existing law requires the governing authority of a school or other institution to require documentary proof of each entrant's immunization status. Existing law authorizes the governing authority of a school or other institution to temporarily exclude a child from the school or institution if the authority has good cause to believe that the child has been exposed to one of those diseases, as specified.

This bill would eliminate the exemption from existing specified immunization requirements based upon personal beliefs, but would allow exemption from future immunization requirements deemed appropriate by the State Department of Public Health for either medical reasons or personal beliefs. The bill would exempt pupils in a home-based private school and students enrolled in an independent study program *and who do not receive classroom-based instruction*, pursuant to specified law from the prohibition described above. *The bill would allow pupils who, prior to January 1, 2016, have a letter or affidavit on file at a private or public elementary or secondary school, child day care center, day nursery, nursery school, family day care home, or development center stating beliefs opposed to immunization, to be enrolled in any private or public elementary or secondary school, child day care center, day nursery, nursery school, family day care home, or development center within the state until the pupil enrolls in the next grade span, as defined. Except as under the circumstances described above, on and after January 1, 2016, the bill would prohibit a governing authority from unconditionally admitting to any of those institutions for the first time or admitting or advancing any pupil to the 7th grade level, unless the pupil has been immunized as required by the bill. The bill would specify that its provisions do not prohibit a pupil who qualifies for an individualized education program, pursuant to specified laws, from accessing any special education and related services required by his or her individualized education program.* The bill would narrow the authorization for temporary exclusion from a school or other institution to make it applicable only to a child who has been exposed to a specified disease and whose documentary proof of immunization status does not show proof of immunization against one of the diseases described above. The bill would make conforming changes to related provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 120325 of the Health and Safety Code  
2 is amended to read:

3     120325. In enacting this chapter, but excluding Section 120380,  
4 and in enacting Sections 120400, 120405, 120410, and 120415, it  
5 is the intent of the Legislature to provide:

6     (a) A means for the eventual achievement of total immunization  
7 of appropriate age groups against the following childhood diseases:

8         (1) Diphtheria.

9         (2) Hepatitis B.

10        (3) Haemophilus influenzae type b.

11        (4) Measles.

12        (5) Mumps.

13        (6) Pertussis (whooping cough).

14        (7) Poliomyelitis.

15        (8) Rubella.

16        (9) Tetanus.

17        (10) Varicella (chickenpox).

18        (11) Any other disease deemed appropriate by the department,  
19 taking into consideration the recommendations of the Advisory  
20 Committee on Immunization Practices of the United States  
21 Department of Health and Human Services, the American Academy  
22 of Pediatrics, and the American Academy of Family Physicians.

23     (b) That the persons required to be immunized be allowed to  
24 obtain immunizations from whatever medical source they so desire,  
25 subject only to the condition that the immunization be performed  
26 in accordance with the regulations of the department and that a  
27 record of the immunization is made in accordance with the  
28 regulations.

29     (c) Exemptions from immunization for medical reasons.

30     (d) For the keeping of adequate records of immunization so that  
31 health departments, schools, and other institutions, parents or  
32 guardians, and the persons immunized will be able to ascertain  
33 that a child is fully or only partially immunized, and so that  
34 appropriate public agencies will be able to ascertain the  
35 immunization needs of groups of children in schools or other  
36 institutions.

(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.

SEC. 2. Section 120335 of the Health and Safety Code is amended to read:

120335. (a) As used in this chapter, “governing authority” means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b) The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless, prior to his or her first admission to that institution, he or she has been fully immunized. The following are the diseases for which immunizations shall be documented:

- (1) Diphtheria.
- (2) *Haemophilus influenzae* type b.
- (3) Measles.
- (4) Mumps.
- (5) Pertussis (whooping cough).
- (6) Poliomyelitis.
- (7) Rubella.
- (8) Tetanus.
- (9) Hepatitis B.
- (10) Varicella (chickenpox).

(11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(c) Notwithstanding subdivision (b), full immunization against hepatitis B shall not be a condition by which the governing authority shall admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school.

(d) The governing authority shall not unconditionally admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school unless the pupil has been fully

1 immunized against pertussis, including all pertussis boosters  
2 appropriate for the pupil's age.

3 (e) The department may specify the immunizing agents that  
4 may be utilized and the manner in which immunizations are  
5 administered.

6 (f) This section does not apply to a pupil in a home-based private  
7 school or a pupil who is enrolled in an independent study program  
8 pursuant to Article 5.5 (commencing with Section 51745) of  
9 Chapter 5 of Part 28 of the Education Code. *Code and does not*  
10 *receive classroom-based instruction.*

11 (g) (1) *A pupil who, prior to January 1, 2016, submitted a letter*  
12 *or affidavit on file at a private or public elementary or secondary*  
13 *school, child day care center, day nursery, nursery school, family*  
14 *day care home, or development center stating beliefs opposed to*  
15 *immunization shall be allowed enrollment to any private or public*  
16 *elementary or secondary school, child day care center, day nursery,*  
17 *nursery school, family day care home, or development center within*  
18 *the state until the pupil enrolls in the next grade span.*

19 (2) *For purposes of this subdivision, "grade span" means each*  
20 *of the following:*

21 (A) *Birth to preschool.*

22 (B) *Kindergarten and grades 1 to 6, inclusive, including*  
23 *transitional kindergarten.*

24 (C) *Grades 7 to 12, inclusive.*

25 (3) *Except as provided in this subdivision, on and after July 1,*  
26 *2016, the governing authority shall not unconditionally admit to*  
27 *any of those institutions specified in this subdivision for the first*  
28 *time, or admit or advance any pupil to 7th grade level, unless the*  
29 *pupil has been immunized for his or her age as required by this*  
30 *section.*

31 (h) *This section does not prohibit a pupil who qualifies for an*  
32 *individualized education program, pursuant to federal law and*  
33 *Section 56026 of the Education Code, from accessing any special*  
34 *education and related services required by his or her individualized*  
35 *education program.*

36 SEC. 3. Section 120338 is added to the Health and Safety Code,  
37 to read:

38 120338. Notwithstanding Sections 120325 and 120335, any  
39 immunizations deemed appropriate by the department pursuant to  
40 paragraph (11) of subdivision (a) of Section 120325 or paragraph

(11) of subdivision (b) of Section 120335, may be mandated before a pupil's first admission to any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, only if exemptions are allowed for both medical reasons and personal beliefs.

SEC. 4. Section 120365 of the Health and Safety Code is repealed.

SEC. 5. Section 120370 of the Health and Safety Code is amended to read:

120370. (a) If the parent or guardian files with the governing authority a written statement by a licensed physician to the effect that the physical condition of the child is such, or medical circumstances relating to the child are such, that immunization is not considered safe, indicating the specific nature and probable duration of the medical condition or circumstances—~~that contraindicate~~ *for which the physician does not recommend* immunization, that child shall be exempt from the requirements of Chapter 1 (commencing with Section 120325, but excluding Section 120380) and Sections 120400, 120405, 120410, and 120415 to the extent indicated by the physician's statement.

(b) If there is good cause to believe that a child has been exposed to a disease listed in subdivision (b) of Section 120335 and his or her documentary proof of immunization status does not show proof of immunization against that disease, that child may be temporarily excluded from the school or institution until the local health officer is satisfied that the child is no longer at risk of developing or transmitting the disease.

SEC. 6. *Section 120375 of the Health and Safety Code is amended to read:*

120375. (a) The governing authority of each school or institution included in Section 120335 shall require documentary proof of each entrant's immunization status. The governing authority shall record the immunizations of each new entrant in the entrant's permanent enrollment and scholarship record on a form provided by the department. The immunization record of each new entrant admitted conditionally shall be reviewed periodically by the governing authority to ensure that within the time periods designated by regulation of the department he or she has been fully immunized against all of the diseases listed in

1 Section 120335, and immunizations received subsequent to entry  
2 shall be added to the pupil's immunization record.

3 (b) The governing authority of each school or institution  
4 included in Section 120335 shall prohibit from further attendance  
5 any pupil admitted conditionally who failed to obtain the required  
6 immunizations within the time limits allowed in the regulations  
7 of the department, unless the pupil is exempted under Section  
8 ~~120365~~ or 120370, until that pupil has been fully immunized  
9 against all of the diseases listed in Section 120335.

10 (c) The governing authority shall file a written report on the  
11 immunization status of new entrants to the school or institution  
12 under their jurisdiction with the department and the local health  
13 department at times and on forms prescribed by the department.  
14 As provided in paragraph (4) of subdivision (a) of Section 49076  
15 of the Education Code, the local health department shall have  
16 access to the complete health information as it relates to  
17 immunization of each student in the schools or other institutions  
18 listed in Section 120335 in order to determine immunization  
19 deficiencies.

20 (d) The governing authority shall cooperate with the county  
21 health officer in carrying out programs for the immunization of  
22 persons applying for admission to any school or institution under  
23 its jurisdiction. The governing board of any school district may  
24 use funds, property, and personnel of the district for that purpose.  
25 The governing authority of any school or other institution may  
26 permit any licensed physician or any qualified registered nurse as  
27 provided in Section 2727.3 of the Business and Professions Code  
28 to administer immunizing agents to any person seeking admission  
29 to any school or institution under its jurisdiction.